

House File 2354 - Introduced

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A BILL FOR

1 An Act relating to the conduct of elections, including the
2 counting and recounting of ballots and the certification of
3 results.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 49.98, Code 2022, is amended to read as
2 follows:

3 **49.98 Counting ballots.**

4 The ballots shall be counted according to the voters' marks
5 on them as provided in [sections 49.92](#) and [49.93](#), and not
6 otherwise. If, for any reason, it is impossible to determine
7 from a ballot, as marked, the choice of the voter for any
8 office, the vote for that office shall not be counted. A
9 ~~ballot shall be rejected if the voter used a mark to identify~~
10 ~~the voter's ballot.~~ The state commissioner shall, by rule
11 adopted pursuant to [chapter 17A](#), develop uniform definitions of
12 what constitutes a vote.

13 Sec. 2. Section 50.24, subsection 3, Code 2022, is amended
14 to read as follows:

15 3. The Not later than one week after convening, the board
16 shall certify an election canvass summary report prepared by
17 the commissioner. The election canvass summary report shall
18 include the results of the election, including scatterings,
19 overvotes, and undervotes, by precinct for each contest and
20 public measure that appeared on the ballot of the election
21 being canvassed. However, if paper ballots are used pursuant
22 to [section 49.26](#), the election canvass summary report shall not
23 include overvotes and undervotes.

24 Sec. 3. Section 50.38, Code 2022, is amended to read as
25 follows:

26 **50.38 Time of state canvass.**

27 Not later than ~~twenty-seven~~ thirty-four days after the
28 day of the election, the secretary of state shall present to
29 the board of state canvassers abstracts of votes cast at the
30 election showing the number of ballots cast for each office and
31 a summary of the results for each office, showing the votes
32 cast in each county. The state board of canvassers shall
33 review the results compiled by the secretary of state and, if
34 the results are accurately tabulated, the state board shall
35 approve the canvass.

1 Sec. 4. Section 50.48, subsection 1, paragraph a,
2 unnumbered paragraph 1, Code 2022, is amended to read as
3 follows:

4 The county board of canvassers shall order a recount of the
5 votes cast for a particular office or nomination in ~~one or more~~
6 specified each election precincts in that county precinct where
7 a vote was cast for an office if a written request for a recount
8 is made not later than 5:00 p.m. on the third day following
9 the county board's canvass of the election in question. For
10 a city runoff election held pursuant to [section 376.9](#), the
11 written request must be made not later than 5:00 p.m. on the
12 day following the county board's canvass of the city runoff
13 election. The request shall be filed with the commissioner of
14 that county and shall be signed by either of the following:

15 Sec. 5. Section 50.48, subsection 1, Code 2022, is amended
16 by adding the following new paragraph:

17 NEW PARAGRAPH. c. Immediately upon receipt of a request for
18 a recount for an office filled by the electors of more than one
19 county, the commissioner shall send a copy of the request to
20 each commissioner of a county where a ballot for the office was
21 cast, who shall conduct a recount as provided in this section.
22 A candidate for an office filled by the electors of the entire
23 state shall not be required to pay more than one bond for a
24 recount.

25 Sec. 6. Section 50.48, subsection 3, Code 2022, is amended
26 to read as follows:

27 3. a. The recount shall be conducted by a board which shall
28 consist of one of the following:

29 (1) For a county in which three thousand five hundred or
30 fewer ballots were cast:

31 ~~(1)~~ (a) A designee of the candidate requesting the recount,
32 who shall be named in the written request when it is filed.

33 ~~(2)~~ (b) A designee of the apparent winning candidate, who
34 shall be named by that candidate at or before the time the
35 board is required to convene.

1 ~~(3)~~ (c) A person chosen jointly by the members designated
2 under ~~subparagraphs (1)~~ subparagraph divisions (a) and (2) (b).

3 (2) For a county in which more than three thousand five
4 hundred but not more than twelve thousand ballots were cast:

5 (a) Two designees of the candidate requesting the recount,
6 who shall be named in the written request when it is filed.

7 (b) Two designees of the apparent winning candidate, who
8 shall be named by that candidate at or before the time the
9 board is required to convene.

10 (c) Two persons chosen jointly by the members designated
11 under subparagraph divisions (a) and (b).

12 (3) For a county in which more than twelve thousand ballots
13 were cast:

14 (a) Three designees of the candidate requesting the
15 recount, who shall be named in the written request when it is
16 filed.

17 (b) Three designees of the apparent winning candidate, who
18 shall be named by that candidate at or before the time the
19 board is required to convene.

20 (c) Three persons chosen jointly by the members designated
21 under subparagraph divisions (a) and (b).

22 b. The commissioner shall convene the persons designated
23 under paragraph "a", ~~subparagraphs~~ subparagraph (1) and,
24 subparagraph divisions (a) and (b), subparagraph (2),
25 subparagraph divisions (a) and (b), or subparagraph (3),
26 subparagraph divisions (a) and (b), not later than 9:00 a.m.
27 on the seventh day following the county board's canvass of the
28 election in question. If those ~~two~~ members cannot agree on the
29 ~~third~~ additional member or members by 8:00 a.m. on the ninth
30 day following the canvass, they shall immediately so notify the
31 chief judge of the judicial district in which the canvass is
32 occurring, who shall appoint the ~~third~~ additional member or
33 members not later than 5:00 p.m. on the eleventh day following
34 the canvass.

35 Sec. 7. Section 50.48, subsection 4, paragraphs a and c,

1 Code 2022, are amended to read as follows:

2 *a.* When all members of the recount board have been selected,
 3 the board shall undertake and complete the required recount by
 4 hand as expeditiously as reasonably possible. The commissioner
 5 or the commissioner's designee shall supervise the handling
 6 of ballots to ensure that the ballots are protected from
 7 alteration or damage. The board shall open only the sealed
 8 ballot containers from the precincts specified to be recounted
 9 in the request or by the recount board. The board shall
 10 recount only the ballots which were voted and counted for the
 11 office in question, including any disputed ballots returned as
 12 required in section 50.5. ~~If automatic tabulating equipment~~
 13 ~~was used to count the ballots, the recount board may request~~
 14 ~~the commissioner to retabulate the ballots using the automatic~~
 15 ~~tabulating equipment. The same program used for tabulating the~~
 16 ~~votes on election day shall be used at the recount unless the~~
 17 ~~program is believed or known to be flawed. The board shall~~
 18 presume that any mark in a voting target constitutes a vote
 19 for the candidate or public measure listed next to the target
 20 unless the board finds that the mark was made inadvertently or
 21 that the voter attempted to erase the mark.

22 *c.* The ballots shall be resealed by the recount board before
 23 adjournment and shall be preserved as required by section
 24 50.12. At the conclusion of the recount, the recount board
 25 shall make and file with the commissioner a written report of
 26 its findings, which shall be signed by at least ~~two~~ two-thirds
 27 of the members of the recount board. The recount board shall
 28 complete the recount and file its report not later than the
 29 eighteenth day following the county board's canvass of the
 30 election in question.

31 Sec. 8. Section 50.48, subsection 4, paragraph b, Code 2022,
 32 is amended by striking the paragraph.

33 EXPLANATION

34 The inclusion of this explanation does not constitute agreement with
 35 the explanation's substance by the members of the general assembly.

1 This bill relates to the conduct of elections, including the
2 counting and recounting of ballots and the certification of
3 results. The bill strikes a provision of law making a ballot
4 invalid if the voter placed an identifying mark on the ballot.
5 The bill requires a county board of supervisors to certify the
6 results of an election within one week after convening. The
7 bill changes the date by which the secretary of state must
8 certify an election from 27 days after the election to 34 days
9 after the election.

10 The bill requires all recounts of ballots cast for an office
11 to include each precinct in which a ballot was cast for that
12 office. If ballots were cast for the office in more than one
13 county, the county commissioner of elections who receives a
14 request for a recount shall immediately forward the request to
15 each other county commissioner of elections of a county where a
16 ballot was cast for that office, who shall conduct a recount
17 for the office. A candidate for a statewide office shall not
18 be required to pay more than one bond for a recount.

19 The bill changes the size of a recount board based on the
20 number of ballots cast in the election. For a county in which
21 3,500 or fewer ballots were cast, the bill requires a recount
22 board to consist of one designee of each contestant and one
23 person agreed upon by the designees. For a county in which at
24 least 3,501 but not more than 12,000 ballots were cast, the
25 bill requires a recount board to consist of two designees of
26 each contestant and two persons agreed upon by the designees.
27 For a county in which 12,001 ballots or more were cast, the
28 bill requires a recount board to consist of three designees of
29 each contestant and three persons agreed upon by the designees.
30 The bill requires a report of a recount board to be signed by
31 two-thirds of the members of the board.

32 The bill strikes a provision allowing a recount board to
33 use automatic tabulating equipment to retabulate ballots and
34 requires a recount board to conduct each recount by hand. The
35 bill also requires a recount board to presume that any mark in

1 a voting target constitutes a vote for the candidate or public
2 measure listed next to the target unless the board finds that
3 the mark was made inadvertently or that the voter attempted to
4 erase the mark.